

<b>CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)</b>			Docket No. <b>124006</b>	
Applicant(s): <b>Peter Jarvis et al.</b>				
Serial No. <b>10/064,538</b>	Filing Date <b>7/25/2002</b>	Examiner <b>Lincoln D. Donovan</b>	Group Art Unit <b>2832</b>	
Invention: <b>METHOD FOR ASSEMBLING MAGNETIC MEMBERS FOR MAGNETIC RESONANCE IMAGING MAGNETIC FIELD GENERATOR</b>				
<div style="text-align: right;">RECEIVED CENTRAL FAX CENTER MAY 19 2004 <b>OFFICIAL</b></div> <p>I hereby certify that this _____ <b>response to restriction requirement</b> _____ (Identify type of correspondence)</p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <b>703-872-9306</b>)</p> <p>on <b>May 19, 2004</b> (Date)</p> <div style="text-align: right;"><p><b>Noelle T. Erickson</b> (Typed or Printed Name of Person Signing Certificate)</p><p><i>Noelle T. Erickson</i> (Signature)</p></div> <p style="text-align: center;">Note: Each paper must have its own certificate of mailing.</p>				

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT: PETER JARVIS ET AL. ) Group Art Unit: 2832  
SERIAL NO. 10/064,538 )  
FILED: July 25, 2002 ) Examiner:  
TITLE: METHOD FOR ASSEMBLING ) Donovan, Lincoln D.  
MAGNETIC MEMBERS FOR MAGNETIC ) Confirmation No. 1269  
RESONANCE IMAGING MAGNETIC )  
FIELD GENERATOR )

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement mailed on April 22, 2004, and in accordance with the provisions under 37 CFR § 1.146, applicants submit the following election for further prosecution on the merits.

ELECTION

Applicants hereby provisionally elect Invention I: Claims 1 – 11 drawn to a method of assembling the magnetic field generator with traverse.

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REMARKS

Claims 1 - 11 are elected in the instant application with traverse.

The requirement for election being the only issue raised in the Office Action, this paper is fully responsive to the same.

Applicants respectfully suggest that the Examiner has improperly restricted the claims in the application and mischaracterizes the claimed inventions. The Examiner's attention is directed to note that the invention may have been misclassified. The invention is not directed to a super-conducting magnet and in fact is related to a magnetic field generator employing permanent magnets.

For a restriction to be proper between a product and a process for using the product, the Examiner must show (1) that the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05. Considering the rejection between inventions identified as I and II, the Examiner contends that the process could be performed with some other way, for example by pre-assembling the magnetic blocks. Applicants respectfully suggest that the Examiner has mischaracterized the elements and has overly narrowly construed the wording of the claims. Whether pre-assembled or not, the apparatus as claimed needs to be assembled. The methodology claimed is a method for doing so. Pre-assembly would not be a materially different process for assembling the claimed apparatus. Conversely, the Examiner's attention is directed to note that the methodology claimed could not be employed to assemble a materially different apparatus. In the end, the resulting apparatus is a magnet field generator for

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magnetic resonance imaging. Therefore, because the process for assembling the product as claimed cannot be practiced with another **materially** different product and the product as claimed can not be assembled using a **materially** different process the restriction is improper and should be withdrawn.

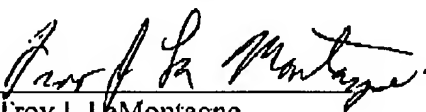
Applicants reserve the right to file a divisional application for the non-elected subject matter in this application.

In the event the Examiner has any queries regarding the instantly submitted response, Applicants' attorney respectfully requests the courtesy of a telephone conference to discuss any matters in need of attention.

If there are additional charges with respect to this matter or otherwise, please charge them to Deposit Account No. 07-0845.

Respectfully Submitted,

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By 

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Date: May 19, 2004

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